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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/740,203	12/18/2003	Vernon Fernandez	706752US2	2240

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DAIMLERCHRYSLER INTELLECTUAL CAPITAL CORPORATION
CIMS 483-02-19
800 CHRYSLER DR EAST
AUBURN HILLS, MI 48326-2757

EXAMINER

KERNS, KEVIN P

ART UNIT	PAPER NUMBER
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1725

DATE MAILED: 08/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/740,203

Applicant(s)

FERNANDEZ ET AL.

Examiner

Kevin P. Kerns

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welch (US 2,776,362) in view of either Seele (US 2,590,896) or Malsbury et al. (US 6,751,852).

Welch discloses a resistance welding machine that includes an actuator 20 that is connected onto a mounting member via a plurality of fasteners 21, such that the mounting member for securing the actuator 20 has a plurality of spaced-apart apertures (arranged in a circle about a center point) through which the fasteners 21 are placed in

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a removably secured manner to the welding machine, in which the fasteners are threaded and include a narrow shank portion of a smaller diameter and a wider head portion of a larger diameter (column 2, lines 13-39; and Figures 1 and 3). Welch does not disclose the use of a plurality of keyhole-type apertures to engage the fasteners.

However, Seele discloses a locking device that includes a plurality of circumferentially spaced keyhole slots 18 (keyhole apertures) that include an enlarged end 19 and a narrow portion 20, such that the keyhole slots are advantageous for aligning and subsequently locking the components together (column 1, lines 11-43; column 2, lines 2-10 and 35-55; column 3, lines 1-55; and Figures 1-6).

In addition, Malsbury et al. disclose a vessel having a lock plate, in which the lock plate 400 includes a plurality of circumferentially spaced keyhole slots 404 that are advantageous for alignment and securing of flanged components (abstract; column 2, lines 59-67; column 3, lines 1-17; column 5, lines 36-55; column 8, lines 14-45; and Figures 6 and 11).

It would have been obvious to one of ordinary skill in the art at the time the applicants' invention was made to modify the securing system for fastening an actuator to a resistance welding machine, as disclosed by Welch, by using a plurality of keyhole-type apertures to engage the fastener, as taught individually by Seele and Malsbury et al., in order to align and lock the components together (Seele; column 1, lines 18-35; and column 2, lines 2-20), and in order to align and secure flanged components (Malsbury et al.; column 3, lines 2-17; column 5, lines 46-55; and column 8, lines 14-45).

Response to Arguments

4. The examiner acknowledges the applicants' amendment/response received by the USPTO on August 19, 2005. The amendments overcome prior objections to the specification and claim 6. Claims 1-8 remain under consideration in the application.

5. Applicants' arguments filed August 19, 2005 have been fully considered but they are not persuasive.

With regard to the applicants' remarks/arguments on pages 6 and 7 of the amendment/response, the examiner respectfully disagrees, as all three prior art references are concerned with removably securing one object to another. Welch discloses removably securing an actuator 20 to a resistance welding machine via fasteners 21, and thus includes the concept of removable mounting of actuator 20. Welch only lacks the keyhole-type apertures to engage the fasteners, of which such keyhole-type apertures are individually disclosed by Seele and Malsbury et al. Alignment and securing/locking, as established in the disclosures of Seele and Malsbury et al., are deemed to be proper motivations for combining the references. As a result, the 35 USC 103(a) rejections of paragraph 3 continue to set forth a *prima facie* case of obviousness over claims 1-8 of the application.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "the use of a plurality of keyhole-type apertures engaging the fasteners to quickly

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and removably secure an actuator to a resistance welding machine without the necessity of removing the fasteners" – see last sentence of page 7 of remarks section) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Kevin P. Kerns whose telephone number is (571) 272-1178. The examiner can normally be reached on Monday-Friday from 8:00am-5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on (571) 272-1171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin P. Kerns *Kevin Kerns 8/28/05*
Primary Examiner
Art Unit 1725

KPK
kpk
August 28, 2005